

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

ROBERT BREWER,

Plaintiff,

**3:18-cv-399
(GLS/DEP)**

v.

**MARGARET IMMEL BREWER
et al.,**

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

Robert Brewer
Pro Se
P.O. Box 1004
Johnson City, NY 13790

FOR THE DEFENDANTS:

No Appearances

**Gary L. Sharpe
Senior District Judge**

ORDER

On April 27, 2018, Chief Magistrate Judge David E. Peebles filed an Order, Report, and Recommendation (R&R), which recommends that Robert Brewer's complaint be dismissed with leave to replead. (Dkt. No. 6

at 17-18.) Pending before the court are Brewer's objections to the R&R.¹ (Dkt. No. 7.)

Although his objections are not a model of clarity, Brewer mainly argues that certain classifications by Judge Peebles in interpreting his complaint were clearly erroneous. (Dkt. No. 7 ¶¶ 11, 16, 31.) Brewer's arguments primarily relate to inconsequential dicta within the R&R and are devoid of any specific objections to the substance of Judge Peebles' analysis. See *Almonte v. N.Y. State Div. of Parole*, No. Civ. 904CV484, 2006 WL 149049, at *5-6 (N.D.N.Y. Jan. 18, 2006). Additionally, acknowledging the complaint's lack of plausible allegations, Brewer provides numerous examples of changes that he would make to his pleadings if permitted leave to amend. (Dkt. No. 7 ¶¶ 9, 33, 40, 43.)

Having carefully considered the R&R in light of Brewer's objections, the court finds no clear error in Judge Peebles' analysis, which thoroughly analyzed the sufficiency of the claims set forth in Brewer's complaint pursuant to 28 U.S.C. § 1915(e), (Dkt. No. 6 at 6-15), and recommended that leave to amend be granted, (*id.* at 15-17). Accordingly, the R&R, (Dkt.

¹ Brewer also filed untimely supplemental objections, (Dkt. No. 8), which are not considered. See 28 U.S.C. § 636(b)(1).

No. 6), is adopted in its entirety.

Accordingly, it is hereby

ORDERED that the Order, Report and Recommendation (Dkt. No. 6) is **ADOPTED** in its entirety; and it is further

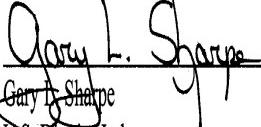
ORDERED that the complaint (Dkt. No. 1) is **DISMISSED with leave to amend** in full compliance with Judge Peebles' R&R²; and it is further

ORDERED that Brewer shall file an amended complaint no later than thirty (30) days from the issuance of this Order, and the Clerk shall close this case without any further Order should he fail to do so; and it is further

ORDERED that the Clerk provide a copy of this Order to the parties in accordance with the Local Rules of Practice.

IT IS SO ORDERED.

July 13, 2018
Albany, New York



Gary L. Sharpe
U.S. District Judge

² If Brewer chooses to file an amended complaint, it must be a wholly integrated and complete pleading that does not rely upon or incorporate by reference any pleading or document previously filed with the court. See *Shields v. Citytrust Bancorp, Inc.*, 25 F.3d 1124, 1128 (2d Cir. 1994).